



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Matthew Zuker, Chairman
James S. DeCelle, Vice Chairman
Craig W. Hiltz, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
Robert Fitzgerald, Associate Member

REMAND DECISION - BOARD OF APPEAL CASE NO. 03-16

APPLICANT

McSharry Bros., Inc.

LOCATION OF PROPERTY INVOLVED:

Vacant Land off Pleasant Street, Walpole, MA
Walpole Assessors' IDs: 20-54 and 20-63 – Zoning District: GR
(Norwood Land Map 10, Sheet 2, Lot 2)

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REMAND DECISION – WALPOLE BOARD OF APPEALS CASE NO. 03-16

In accordance with the October 12, 2017 Order of Remand issued by the Land Court (Piper, J.), in litigation known as McSharry Bros., Inc. v. Zoning Board of Appeals of the Town of Walpole, et al., Land Court 2017 MISC 000256-PIPER, the Walpole Board of Appeals ("Board") met on October 25, 2017 and deliberated on the matter referenced below and voted 5-0 to adopt this Remand Decision and to file it with the Town Clerk and with the Land Court, in order to supplement and replace the Board's final action previously taken on April 21, 2017 as follows:

APPLICANT:

McSharry Bros., Inc.

PROPERTY:

Vacant Land Off of Pleasant Street, Walpole, MA
Walpole Assessing Map: 20-54 and 20-63
Norwood Assessing Map 10, Sheet 2, Lot 2

ZONING DISTRICT:

GR

APPLICATION:

Special Permit relief is requested under two provisions of the Walpole Zoning Bylaw ("ZBL"):

1. Section 5-B.1. Table of Uses. 3. Residential Uses. b. Two-family detached dwelling if located on a lot having an area of at least twenty thousand (20,000) square feet and if connected to or to be connected at time of construction with the public sewer system; and
2. Section 6-C. Special Conditions. 4. Number of Buildings Per Lot. A. Residential.

A True Copy Attest

Town Clerk

in order to allow a condominium complex at the Property that would consist of six buildings, with each building to be a duplex

135 School Street, Walpole, MA 02081

Public Hearing:

(two-family), for a total of 12 dwelling units, with associated parking, landscaping, signage and utilities.

Eligible Members:

A public hearing on the Application was duly advertised and posted and timely opened and then closed on March 1, 2017. On April 19, 2017, the Board deliberated and took final action by filing its decision with the Town Clerk's Office on April 21, 2017. The Board Members who participated in the public hearing and the original deliberations and in this Remand Decision are:

Matthew Zuker, Chairman
James DeCelle, Vice Chairman
Craig Hiltz, Clerk
Susanne Murphy, Member
Mary Jane Coffey, Member

Appeal and Remand:

The Applicant appealed the April 21, 2017 final action in the litigation referenced above and the Land Court, at the Board's request, remanded the matter to the Board to render supplementary findings and a new decision.

Remand Decision:

ZBL §5-B.1.Table of Uses.3.Residential Uses.b (Two-family).

On April 19, 2017, during the original deliberations, the Board voted by a supermajority vote to grant the Applicant special permit relief under ZBL §5-B.1.Table of Uses.3.Residential Uses.b.Two-family detached dwelling, to allow two-family special permit relief. [Note, The Board's April 21, 2017 final action as filed with the Town Clerk's Office incorrectly reflected that the vote taken by the Board was a denial of this relief and this remand decision corrects that error.]

On October 25, 2017, the Board voted 5 to 0 to make the following findings of fact regarding the grant of special permit relief for the Property to allow a two-family use under ZBL §5-B.1.Table of Uses. 3.Residential Uses.b:

- The Property has the minimum 20,000 s.f. required for each a two-family dwelling (i.e., the Property has an area of 121,579 s.f., which satisfies the minimum requirement of 20,000 s.f.; and
- A sewer connection is available for the Property as required; and, as a condition of approval of this relief, a two-family use of this Property shall be connected to sewer at the time of construction.

ZBL §6-C.4.Number of Buildings.A.Residential

On April 19, 2017, during the original deliberations, the Board voted 5-0 to deny the Applicant special permit relief under ZBL §6-C.Special Conditions.4.Number of Buildings Per Lot. A. Residential, to allow six separate buildings at the Property, each with two units, for a density of twelve units as shown on Plan

Sheet 3 of 9, as prepared by Norwood Engineering Company, Inc., entitled "Maplewood Condominiums Site Plan Layout and Utilities Site Plan Pleasant Street Walpole/Norwood Massachusetts," which is dated December 14, 2015, as revised through February 1, 2017 (hereinafter "Sheet 3," a copy of which is attached hereto).

On October 25, 2017, the Board reviewed its April 19, 2017 deliberations and the proposed design of the six duplex buildings as shown on Sheet 3 and voted 5 to 0 to confirm its original denial of special permit relief for the project under ZBL §6-C.Special Conditions.4.Number of Buildings Per Lot.A Residential because the proposed project would not be in harmony with the general character of the neighborhood's existing driveways, building placement, setbacks, volume and spacing, as required under ZBL §6-C.4.A, for the following reasons:

- i. The Existing General Neighborhood. The Board finds that the general neighborhood consists of single family, two-family, one three-family and one four-family residential uses on individual lots and there are no lots with more than four units located on them and, so, the project is not in harmony with the general character of the neighborhood.
- ii. The Proposed Driveway. The proposed driveway for the project would have a single outlet for access that would serve the 12 units and this is not in harmony with the existing driveways in the neighborhood or the general character of the neighborhood. The proposed driveway outlet on Pleasant Street is not appropriate or safe for so many dwellings as Pleasant Street is a narrow, heavily trafficked road, which is used during peak commuting hours as a cut through to reach the Norwood Train Station and as an alternate route to Route One.
- iii. The Proposed Driveway. The proposed driveway for the project would subject the occupants of the dwelling at 7 Pleasant Street to the noise, light, vibration and other impacts that a driveway for 12 unit would create, along a shared lot line and this would not be in harmony with the general character of the neighborhood.
- iv. Proposed Building Placement. The proposed building placement for the project would overwhelm the rear yard of the dwelling at 7 Pleasant Street, as the occupants of that dwelling would view four to six of the proposed twelve units from the rear. In addition, all of the direct residential abutters would be adversely impacted by the placement of

the proposed buildings as the volume (density) of 12 units is too great for the site and the proposed setbacks are too limited to protect the adjacent residential uses and would create privacy and noise and lighting and other concerns and would not be in harmony with the general character of the neighborhood.

- v. Proposed Setbacks. The proposed setbacks for the project would result in new two-family structures being located within 15 feet of adjacent boundary lines that are shared with lots that are occupied by existing residential dwellings. The proposed setbacks are not deep enough to protect adjacent land owners and would not be in keeping with the current setbacks in the neighborhood and so the project's proposed setbacks are not in keeping with the general character of the neighborhood. To allow multiple principal buildings, the Board determined that there should be a minimum setback of 30 feet for any proposed new building from any adjacent lot line.
- vi. Proposed Volume. The proposed volume of 6 principal buildings and 12 dwelling units is too dense for the general character of the neighborhood, which consists of single-family and small multi-family uses on individual lots (i.e., single family, two-families and one 3-family and one 4-family dwelling on individual lots). The proposed density of six two-family units is not in harmony with the general character of the neighborhood's density on individual lots.
- vii. Proposed Spacing. The proposed spacing between five of the six principal buildings of only 17 to 20 feet would result in a type of spacing that is not in harmony with the building spacing that exists now in the neighborhood and the proposed project is not in harmony with the general character of the neighborhood.
- viii. ZBL §2.2.B(1) Criteria. The proposed project's failure to be in harmony with the general character of the neighborhood, for the reasons enumerated above, means that the special permit criteria set forth under ZBL §2.2.B(1)(a)-(c) and (f)-(h) have not been satisfied.

This decision allows one two-family dwelling to be constructed at the Property, but the Applicant may return to the Board to propose a project with greater density than one two-family dwelling, but with less than the density proposed for the current project.

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE IN ACCORDANCE WITH STATE LAW UNDER G.L. c.40A, §17 (i.e., within 20 days from the date that

this decision is filed with the Town Clerk's Office to a court with jurisdiction by any newly aggrieved party) OR IN ACCORDANCE WITH THE ORDER OF REMAND, A COPY OF WHICH IS ATTACHED HERETO,
WALPOLE ZONING BOARD OF APPEALS



Craig W. Hiltz, Clerk

(Authorized to execute the decision by an affirmative 5-0 vote of the Board on 10/25/17)
This decision was made on October 25, 2017 and filed with the Town Clerk on October 30, 2017.